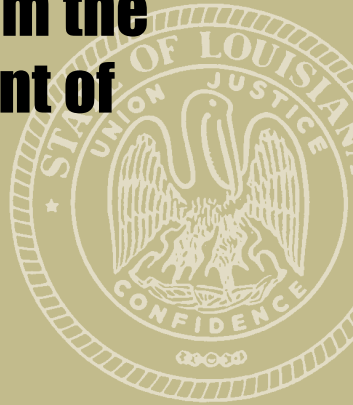


State of Louisiana
Department of Revenue

Rules, Rulings, and Advice from the Department of Revenue



The Louisiana Department of Revenue provides advice to taxpayers in several forms. The purpose of this brochure is to explain the types of formal and informal rules, rulings and advice that the department provides, and the circumstances in which the rule, ruling or advice is binding on the department, and the circumstances in which it is not binding.

- **Rules**

Formal rules that are issued under the Louisiana Administrative Procedures Act, (R.S. 49:950 et seq.), as authorized by R.S. 47:1511 or other statutes, and that are not inconsistent with the law, have the force and effect of law and are binding on both the department and taxpayers.

- **Declaratory Rulings**

The department issues several types of declaratory rulings, each with a uniform format and numbering system. Declaratory rulings do not have the force and effect of law and are not binding on the public.

- **Private Letter Rulings (PLRs)** are a type of declaratory ruling that is written to provide guidance to a specific taxpayer at the taxpayer's request. It is a statement issued to apply principles of law to a specific set of facts or a particular tax situation. A PLR is binding on the department only as to the taxpayer who requested it, and only if the facts provided were truthful and complete, and the transaction was carried out as proposed. A PLR continues as authority for the department's position unless a subsequent declaratory ruling, rule, court case, or statute supersedes it.

Private Letter Rulings are issued only to identified taxpayers who formally request PLRs and whose requests provide the information required by Section 61:III.101(C)(2)(a) of the Louisiana Administrative Code. Most letters written by the department in response to correspondence from taxpayers and their representatives are not Private Letter Rulings. Most letters that department personnel write to provide tax information constitute informal advice that is not binding on the department. Private Letter Rulings that are binding on the department, as explained above, will be clearly labeled "Private Letter Ruling."

Although Private Letter Rulings formally apply to only the taxpayers to whom the letters are addressed, the department recognizes that the information in such rulings might be useful as a guide as to how the department might apply the law to other situations of facts identical or essentially similar to those described in the PLRs. For that reason, the department may publish Private Letter Rulings after all taxpayer identifying information has been removed and any other measures needed to protect taxpayer confidentiality have been taken. Pending requests for Private Letter Rulings cannot be used to delay or interrupt audit examinations. Section 61:III.101(C)(2)(a)(vii) of the Louisiana Administrative Code provides that the department may decline to issue a private letter ruling for several reasons, including situations when the inquiry concerns matters scheduled for audit, in audit, appeal, or litigation.

- **Revenue Rulings** are another type of declaratory ruling written to apply principles of law and a statement of the department's position to specific sets of facts. Revenue Rulings are binding on the department until superseded or modified by subsequent change in statute, regulation, declaratory ruling, or court decision. Revenue Rulings are initiated by department management or are requested by Louisiana Department of Revenue employees who provide a factual and legal background similar to that required of taxpayers requesting Private Letter Rulings.

The Louisiana Department of Revenue may in some cases issue Temporary Revenue Rulings when necessary due to time constraints or emerging issues. Temporary Revenue Rulings will be so labeled, and will clearly state their lack of finality. A final Revenue Ruling will supersede the Temporary Revenue Ruling. If the final Revenue Ruling reaches a different conclusion from the Temporary Ruling, the department will honor whichever ruling is more favorable to the taxpayer, but only for those transactions that occurred after the Temporary Revenue Ruling was issued and before the final Revenue Ruling.

- **Statements of Acquiescence or Nonacquiescence** (SA/SNA) are a third type of declaratory ruling issued to announce the department's acceptance or rejection of specific unfavorable court or administrative decisions. If a decision covers several disputed issues, a SA/SNA may apply to just one of them, or more, as specified.

A SA/SNA is binding on the department unless superseded by a later SA/SNA, declaratory ruling, rule, statute, or court case.

If the department acquiesces in an unfavorable court ruling, the SA will state that department officials in similar circumstances will make the same tax liability determination as in the court decision, when the facts are substantially the same as the facts considered by the court. Taxpayers must be careful to apply the SA to the same or substantially the same facts. Acquiescence does not mean agreement with the court's reasoning; simply that the department will abide by it.

The department may acquiesce in the result only, which only concedes the litigation with that particular taxpayer. In the case of acquiescence only in the result of a court decision, the issues involved in the court case may still be pursued with the litigating taxpayer or with other taxpayers. This indicates that the department will likely seek out another opportunity to litigate the issue with the hope of having the issue addressed by a higher court.

• **Other Types of Formal Policy Guidance**

- **Revenue Information Bulletins (RIBs)**
are informal statements of information issued for the public and employees of the Louisiana Department of Revenue that are general in nature. RIBs do not generally have the force and effect of law and are not generally binding on the public or the department. RIBs are used to announce general information that the department

believes might be useful in complying with the laws administered by the Louisiana Department of Revenue. RIBs will not be used if the primary purpose of the writing is to provide a declaratory ruling, interpretation, or internal guidance.

RIBs will typically be issued for such purposes as:

- Informing the public and employees that a statute or regulation has been added, amended, or rescinded;
- Informing the public and employees that a case has been decided;
- Disseminating information to employees and the public that is based on data supplied by other agencies, such as per capita income figures or comparative tax collections by parish;
- Publishing IRS information;
- Publishing information such as deadlines;
- Informing the public of services offered by the department, such as regional office hours, website features, and like information; or
- Revising a previous Revenue Information Bulletin, Tax Topics, or other similar publication.

• Informal Advice

Taxpayers and employees of the Louisiana Department of Revenue often seek advice on tax questions other than through the formal channels discussed above, and the

department intends to remain responsive to those requests by providing competent informal advice. Informal advice does not have the force and effect of law and is not binding on the department, the public, or the person who asked for the advice. Informal advice will have no effect on an audit.

Any of the following types of informal advice may be provided:

- **Informal Oral Advice** - There is no formal procedure for requesting informal oral advice. Department employees will be assigned, within the limits of the department's budgetary and other resources, to answer questions that citizens direct to the department by telephone or in person. This advice, and the advice given at audit meetings, protest conferences, and the like is considered informal oral advice.
- **Informal E-mail Advice** - Informal e-mail advice has the same status as informal oral advice.
- **Informal Written Advice** - Requests for informal written advice should be in writing. Informal written advice is not a declaratory ruling.
- **Newsletters, Pamphlets, and Informational Publications** - The department may publish informational newsletters, pamphlets, and publications at regular intervals. Statements contained in these publications do not have the force and effect of law and they are not binding on the public or the department. They are merely helpful tools for disseminating information.

➤ **Policy and Procedure Memoranda**

(PPMs) are internal documents providing administrative or management guidance to employees of the Louisiana Department of Revenue. PPMs will be used for such purposes as:

- Notifying employees of internal policies that apply only to employees and do not apply to taxpayers;
- Notifying employees of internal procedures and instructions that do not apply to taxpayers; and
- Informing employees of internal programs that affect only employees.

PPMs do not have the force and effect of law and are not binding on the public, but are binding on employees of the Louisiana Department of Revenue. PPMs do not focus on taxpayers' substantive or procedural rights or obligations.

How to Request a Private Letter Ruling

1. Requests for PLR, must be submitted in writing to:

Policy Services Division
Louisiana Department of Revenue
PO Box 44098
Baton Rouge, LA 70804-4098

Requests must be submitted by an identified taxpayer, or by the taxpayer's representative who has a power of attorney from the taxpayer. Private letter rulings are not issued to tax practitioners who do not identify the clients for whom the rulings are sought.

2. Requests for PLRs must provide the following information:

- a. The name, address, and telephone number of the person requesting the private letter ruling;
- b. A power of attorney, if the person is represented by a third party;
- c. A statement of the specific questions to be answered or issues to be addressed in the private letter ruling;
- d. A complete statement of all relevant facts;
- e. Citations to or copies of relevant statutes, regulations, court decisions, advisory opinions, or other authority that appear to support the position of the person requesting the ruling;
- f. A statement attesting:
 - i. Whether the person requesting the opinion has the same issue under audit or appeal with the department or with any other taxing or revenue authority;
 - ii. If the person requesting the opinion has been notified that an examination or audit is pending;
 - iii. If the person requesting the opinion is litigating the issue;
 - iv. If the department, or any other taxing or revenue authority, has previously

issued an advisory opinion on the subject matter discussed in the request for the private letter ruling (with copy attached);

- v. If the Attorney General's Office has been, or will be, requested to issue an opinion concerning the issue; and
- vi. That prior to the issuance of a PLR, if the requesting person is notified of a pending examination or audit by the department or other taxing or revenue authority, they will notify the Secretary of the pending examination.

Additional copies of this pamphlet
(R-20057) are available at no charge from:

Policy Services Division
Department of Revenue
P.O. Box 44098
Baton Rouge, LA
70804-4098

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